

* Amended

CPS-249

June 21, 2006

June 15, 2006

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. **06-1581**

UNITED STATES of AMERICA

v.

GEOVANI DAVILA, a/k/a GIOVANNI, a/k/a JOVANTE, a/k/a JOHN DOE, Appellant

(M.D. Pa. Crim. No. 01-cr-00018)

(Criminal treated as Civil)

Present: BARRY, SMITH AND NYGAARD, CIRCUIT JUDGES

Submitted are:

- (1) By the Clerk for possible dismissal because the notice of appeal was not timely filed;
- (2) Appellant's notice of appeal, which may be construed as a request for a certificate of appealability under 28 U.S.C. § 2253(c)(1); and
- *(3) Appellant's motion for appointment of counsel**
in the above captioned case.

Respectfully,
Clerk

MMW/DPW/lml

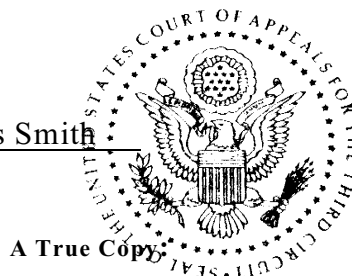
ORDER

Appellant's notice of appeal was timely filed. See FED. R. APP. P. 4(a)(5). The foregoing request for a certificate of appealability is denied. See 28 U.S.C. § 2253(c)(2). Jurists of reason would not debate the correctness of the District Court's decision to deny Appellant's motion filed under 28 U.S.C. § 2255. See Slack v. McDaniel, 529 U.S. 473, 484 (2000). Appellant fails to make a substantial showing of the denial of a constitutional right. See 28 U.S.C. § 2253(c)(2); Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003). Appellant's motion for the appointment of counsel is denied.

By the Court,

/s/ D. Brooks Smith
Circuit Judge

Dated: June 29, 2006



Marcia M. Waldron

Marcia M. Waldron, Clerk

tmk/cc: Mr. Geovani Davila
Gordon A. D. Zubrod, Esq.